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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,567	09/29/2004	Tom Schoenherr	D4700-00391 (3201-376)	9580
8933	7590	06/11/2007	EXAMINER	
DUANE MORRIS, LLP			HUYNH, KHOA D	
IP DEPARTMENT				
30 SOUTH 17TH STREET			ART UNIT	
PHILADELPHIA, PA 19103-4196			PAPER NUMBER	
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			06/11/2007	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/509,567	<b>Applicant(s)</b> SCHOENHERR ET AL. <span style="float: right;">C</span>	
	<b>Examiner</b> Khoa D. Huynh	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-11 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 3-11 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 and 3-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites "an operating height coupled to the supply of water". Such recitation renders the claim indefinite since it is unclear how the operating height could be coupled to the supply of water. Furthermore, there is no support in the written disclosure for such claimed subject matter. Claims 3-10 depend from claim 11 and are likewise indefinite.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 3-11, as presently understood and given the broadest reasonable interpretations, are rejected under 35 U.S.C. 102(b) as being anticipated by Kaiser (2336402).

Regarding claim 11, the Kaiser reference discloses a shower arrangement (Fig. 1). The shower arrangement includes a shower room having at least one

wall bordering a shower area and a supply of water (32,33) at the wall, a fitting housing (constituted by the hot/cold box, 31 and 2) affixed to the wall at an operating height, wherein the housing is coupled to the supply of water in order to provide water to the shower, a first pipe leg (12,4) permanently affixed with respect to the wall and extending upwardly parallel to a plane of the wall, wherein the first pipe leg is coupled directly (at 4) to the fitting housing so as to carry water from the fitting housing to the shower arrangement. A second pipe leg (13 or 14 or 15) is spaced from the first pipe leg and extending upwardly. A cross-member (18,19 or 18,20 or 18,21) connects top ends of the first and second pipe legs so as to carry water from the fitting housing to the second pipe leg, wherein the first and second pipe legs with the cross-member forming an arced hollow section extending for a distance around the showering area, and wherein the cross-member couples to the fitting housing through the first pipe leg. At least one nozzle (at 25) is coupled to the arced hollow section and directs water from the fitting housing into the showering area.

Regarding claim 3, as schematically shown in Figure 1, the cross-member is guided over the center of the showering area spaced from the wall of the room.

Regarding claim 4, the two legs (12 and 15) lie in the same plane (front view of Figure 1).

Regarding claim 5, the two legs (12 and 15) lie in parallel planes (top view of Figure 1).

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Regarding claim 6, the entire arced hollow section lies in a plane (front view of Figure 1).

Regarding claim 7, the cross member bends out of the plane of at least one of the legs.

Regarding claims 8 and 9, as schematically shown in Figure 1, both legs are straight and are provided with nozzles (at 16)

Regarding claim 10, the arced hollow section provides a water line carrying water from the fitting housing to at least one nozzle (16) coupled to the second of the legs.

#### ***Response to Amendment***

5. Applicant's amendment, filed on 03/30/07, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed supra.

#### ***Response to Arguments***

6. Applicant's arguments filed on 03/30/07 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

Applicant asserts that Kaiser does not teach a shower room as amended in claim 11. See remarks section. The examiner disagrees.

As stated in the above revised grounds of rejection, Kaiser does disclose a shower arrangement having a fitting housing (constituted by the hot/cold box, 31 and 2). The housing, as schematically shown in Figure 1, is affixed to the wall at an operating height, wherein the housing is coupled to the supply of water in order to provide water to

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the shower. The housing is indeed controlling the supply of water, i.e. the pressure, the flow rate and the temperature and distributing the water from the supply to the showerhead. In addition, the shower arrangement includes a first pipe leg (12,4) permanently affixed with respect to the wall and extending upwardly parallel to a plane of the wall, wherein the first pipe leg is coupled directly (at 4) to the fitting housing so as to carry water from the fitting housing to the shower arrangement.

Therefore, Kasier does teach a fitting housing for controlling the supply of water to the shower arrangement and a first pipe leg coupled directly to the fitting housing as claimed.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

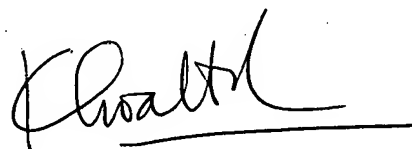
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'K. Huynh', written over a horizontal line.

Khoa D. Huynh  
Primary Examiner  
Art Unit 3751

HK  
06/07/2007